

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Hearing Date: June 5, 2014
Hearing Time: 2:00 p.m.

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In re:

Marcia Campbell

Chapter 13

Case No. 13-40003 (alg)

Debtor.
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NOTICE OF MOTION TO AVOID SECOND MORTGAGE LIEN
HELD BY NINEL BAKER.

PLEASE TAKE NOTICE that the debtor, Marcia Campbell, by and through her attorneys, Bronson Law Offices, P.C., will move this court at the United States Bankruptcy Court, 1 Bowling Green New York, New York 1004-1408, on June 5, 2014, at 2:00 p.m., or as soon thereafter as counsel may be heard, for an order:

1. Avoiding the second mortgage lien held by Ninel Baker on the debtor's real property located at 3939 White Plains Road Bronx, New York 10466.
2. Reclassifying this claim as unsecured.

PLEASE TAKE FURTHER NOTICE that answering affidavits, if any, are required to be served upon the undersigned at least seven (7) days before the return date of this motion.

Dated: Harrison, New York
April 22, 2014

BRONSON LAW OFFICES, P.C

By: /s/ Carl J. Nelson
Carl J. Nelson, Esq.
Attorneys for Debtor
480 Mamaroneck Ave
Harrison, NY 10528
Ph: (877) 385-7793

To:

United States Trustee
Office of the United States Trustee
U.S. Federal Office Building
201 Varick Street
Room 1006
New York, NY 10014-9449

Jeffrey L. Sapir
399 Knollwood Road: Suite 102
White Plains, New York 10603

3939 WPR Funding LLC
Attn: c/o Mark Levin, Secretary
2617 E. 17th St. Unit 7e
Brooklyn, New York 11235

3939 WPR Funding LLC, assignee of
Hayden Asset IX LLC
c/o Lisa Baldesweiler, Esq.
Berkman, Henoch, Peterson, Peddy &
Fench
100 Garden City Plaza
Garden City, NY 11530

Ravert PLLC
Attn: Gary O. Ravert
116 West 23rd ST. 5th Floor
New York, New York 10011

Rosen, Livingston & Cholst LLP
Attn: Deborah Koplovitz
275 Madison Ave. Suite 500
New York, NY 10016

Ninel Baker
2969 B. Decator Ave.
Bronx, NY 10458

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MOTION TO AVOID SECOND MORTGAGE LIEN
HELD BY NINEL BAKER.

Carl J. Nelson, Esq., on behalf of the debtor, Marcia Campbell (the “Debtor”) hereby
states:

1. The Debtor filed a voluntary petition under Chapter 13 of the Bankruptcy Code on December 8, 2013. (**Exhibit A – Voluntary Petition**).
2. The Debtor owns real property located at 3939 White Plains Road Bronx, New York 10466 (the “Property”). The Property is valued at \$380,000.00. (**Exhibit B – Appraisal**).
3. The Property is secured by two mortgages.
4. The first mortgage is held by 3939 WPR Funding LLC, and the total balance owed was approximately \$479,428.08 as of the petition filing date (**Exhibit C – 3939 WPR Funding POC**), of which approximately \$79,000 is disputed and will be challenged by the Debtor.
5. The second mortgage is held by Ninel Baker, and the total balance owed on this mortgage is alleged to be \$79,619.18 as of the petition filing date. (**Exhibit D – Ninel Baker POC**).

6. The lien held by 3939 WPR Funding LLC, the first lien on the Property, in and of itself, exceeds the Property's value.

7. The amount owed Ninel Baker, the second lien on the Property is therefore wholly unsecured pursuant to 11 U.S.C. § 506(a).

8. In accordance with 11 U.S.C. §506(a), an under-secured claim is a secured claim only to the extent of the value of the underlying collateral, and is an unsecured claim for the balance.

9. 11 U.S.C. §1322 (b)(2) provides that the Chapter 13 Plan may modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's residence.

WHEREFORE, it is respectfully requested that the Court enter an Order as follows: 1) determining that any claim against the estate by Ninel Baker or any successor, is wholly unsecured; 2) that the mortgage of Ninel Baker or any successor, be declared void and discharged as a lien on the Property located at 3939 White Plains Road Bronx, New York 10466; 3) modifying the claim of Ninel Baker or any successor to a general, unsecured claim; and 4) granting such other and further relief as the Court deems just and proper.

Dated: Harrison, New York
April 22, 2014

BRONSON LAW OFFICES, P.C.

By: /s/ Carl J. Nelson
Carl J. Nelson, Esq.
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